

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

NEIGHBORHOOD ASSOCIATION	)	CIVIL ACTION
OF THE BACK BAY, INC	)	NO. 04cv11550-RCL
Plaintiff	)	
	)	
	)	
FEDERAL TRANSIT	)	
ADMINISTRATION and	)	
MASSACHUSETTS BAY	)	
TRANSPORTATION AUTHORITY	)	
Defendants	)	

**MASSACHUSETTS BAY TRANSPORTATION AUTHORITY'S  
OPPOSITION TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AND  
CROSS-MOTION FOR SUMMARY JUDGMENT**

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, the defendant, Massachusetts Bay Transportation Authority ("MBTA"), opposes the motion for summary judgment of the plaintiff and further moves for summary judgment on the undisputed record as to all of the claims of the plaintiffs.

In support of its motion, MBTA states as follows:

1. There are no material facts in dispute;
2. The plaintiffs have no viable claim; and
3. MBTA is entitled to judgment as a matter of law.

WHEREFORE, for the reasons stated above and in the accompanying Memorandum of Law, Administrative Record and pleadings on file, and the Affidavit of Winifred Stopps, MBTA requests that this Court enter summary judgment in its favor on all of plaintiff's claims.

Respectfully submitted,

**MASSACHUSETTS BAY TRANSPORTATION  
AUTHORITY**

By its attorneys,

/s/Stephen M. Leonard

Stephen M. Leonard (BBO #294080)

Amanda Buck Varella (BBO #641736)

BROWN RUDNICK BERLACK ISRAELS LLP

One Financial Center

Boston, MA 02111

(617) 856-8200

Dated: March 29, 2005

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties below by operation of the court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the court's CM/ECF System.

Gerald Fabiano  
Pierce, Davis, Fahey & Perritano, LLP  
Ten Winthrop Square  
Fifth Floor  
Boston, MA 02110

Barbara Smith Healy  
United States Attorney's Office  
John Joseph Moakley Federal Courthouse  
1 Courthouse Way  
Suite 9200  
Boston, MA 02210

Herbert P. Gleason  
Law Office of Herbert P. Gleason  
50 Congress Street, Room 300  
Boston, MA 02109

Dated: March 29, 2005

/s/ Stephen M. Leonard  
Stephen M. Leonard